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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

Steven Bradley Hodges,
Plaintiff

v.

Barry Russell, et al.,
Defendants

Case No.: 3:20-cv-00564-JAD-WGC

Order Dismissing Action

ECF No. 1

Plaintiff Steven Bradley Hodges brings this civil-rights case under § 1983 for events he alleges occurred during his incarceration at Northern Nevada Correctional Center.¹ On August 14, 2021, I ordered Hodges to file a first-amended complaint by September 17, 2021.² I expressly warned him that his failure to timely comply with the order would result in the dismissal of this case with prejudice.³ The deadline has passed, and Hodges has not filed a first-amended complaint.

Hodges previously filed an application to proceed *in forma pauperis*.⁴ I grant the application to proceed *in forma pauperis*. Based on the information regarding Hodges's financial status, I find that Hodges is not able to pay an initial installment payment toward the full filing fee pursuant to 28 U.S.C. § 1915. Hodges will, however, be required to make monthly payments toward the full \$350.00 filing fee when he has funds available.

¹ ECF No. 1-1 (complaint).

² ECF No. 7 (Order).

³ *Id.*

⁴ ECF No. 1.

District courts have the inherent power to control their dockets and “[i]n the exercise of that power, they may impose sanctions including, where appropriate . . . dismissal” of a case.⁵ A court may dismiss an action with prejudice based on a party’s failure to prosecute an action, failure to obey a court order, or failure to comply with local rules.⁶ In determining whether to dismiss an action for lack of prosecution, failure to obey a court order, or failure to comply with local rules, the court must consider several factors: (1) the public’s interest in expeditious resolution of litigation; (2) the court’s need to manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy favoring disposition of cases on their merits; and (5) the availability of less drastic alternatives.⁷

I find that the first two factors—the public’s interest in expeditiously resolving the litigation and the court’s interest in managing the docket—weigh in favor of dismissing this case. The risk-of-prejudice factor also weighs in favor of dismissal because a presumption of injury arises from the occurrence of unreasonable delay in filing a pleading ordered by the court or prosecuting an action.⁸ The fourth factor is greatly outweighed by the factors in favor of dismissal, and a court’s warning to a party that his failure to obey the court’s order will result in dismissal satisfies the consideration-of-alternatives requirement.⁹ Hodges was warned that his case would be dismissed with prejudice if he failed to file a first-amended complaint by September 17, 2021.¹⁰ So, Hodges had adequate warning that his failure to file an amended complaint by the deadline would result in this case’s dismissal.

⁵ *Thompson v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829, 831 (9th Cir. 1986).

⁶ See *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260–61 (9th Cir. 1992) (dismissal for failure to comply with an order requiring amendment of complaint); *Malone v. U.S. Postal Service*, 833 F.2d 128, 130 (9th Cir. 1987) (dismissal for failure to comply with court order).

⁷ *Thompson*, 782 F.2d at 831; *Malone*, 833 F.2d at 130; *Ferdik*, 963 F.2d at 1260–61.

⁸ See *Anderson v. Air West*, 542 F.2d 522, 524 (9th Cir. 1976).

⁹ *Ferdik*, 963 F.2d at 1262; *Malone*, 833 F.2d at 132–33.

¹⁰ ECF No. 7 (order).


1 Accordingly, IT IS HEREBY ORDERED that that Hodges's application to proceed in
2 forma pauperis **[ECF No. 1] is GRANTED**. This status does not relieve the plaintiff of the
3 obligation to pay the filing fee, it just means that he can do so in monthly payments that will be
4 deducted from his inmate account when he has funds available, until the full \$350 filing fee is
5 collected from him.

6 In order to ensure that the plaintiff pays the full filing fee, IT IS FURTHER ORDERED
7 that **the Nevada Department of Corrections must pay to the Clerk of the United States**
8 **District Court, District of Nevada, 20% of the preceding month's deposits to the account of**
9 **Steven Bradley Hodges, # 73224** (in months that the account exceeds \$10.00) until the full \$350
10 filing fee has been paid for this action. The Clerk is directed to SEND a copy of this order (1) to
11 the Finance Division of the Clerk's Office and (2) to the attention of **Chief of Inmate Services**
12 **for the Nevada Department of Corrections, P.O. Box 7011, Carson City, NV 89702.**

13 IT IS FURTHER ORDERED THAT this action is **DISMISSED** with prejudice based on
14 Hodges's failure to file a first-amended complaint in compliance with this court's August 14,
15 2021, order; and

16 The Clerk of Court is directed to ENTER JUDGMENT accordingly and CLOSE THIS
17 CASE.

18 Dated: October 4, 2021

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21 U.S. District Judge Jennifer A. Dorsey
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